

LEGALITY OF
SOFTWARE REVERSE ENGINEERING
IN JAPAN

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ABSTRACT

This thesis explores what legal policy Japanese legislature and/or judicature should take towards reverse engineering of software. Unlike reverse engineering of other industrial products, reverse engineering of computer software involves copying of the software. Whether this copying should be deemed to infringe copyright constitutes the main question of this thesis.

Recent development in economics suggests that computer software has a peculiar characteristic; network externalities and path dependence. This thesis addresses the question of reverse engineering through examination of these economic ideas. The thesis also examines the reverse engineering problem from the viewpoint of international politics. An intellectual property policy, which is inherently domestic, is nonetheless vigorously debated and negotiated at international forums.

Having reviewed the economic aspects and the international political aspects, the thesis concludes that Japan should permit reverse engineering for the purpose of obtaining interface specifications. Such a permission should be implemented by way of judicial interpretation of the existing copyright provisions, rather than new legislation.

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